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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------------|--------------------------|------------------|
| 09/838,472 | 04/19/2001 | Philip Edward Arthur Stuart | 60426-252/2000P07639US01 | 2084 |

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EXAMINER

MCLOUD, RENATA D

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|----------------------------|---------------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/838,472 | STUART, PHILIP EDWARD ARTHUR |
| | Examiner Renata McCloud | Art Unit 2837 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 June 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 21-24 is/are allowed.

6) Claim(s) 1,4-7,11-13,15-17 and 20 is/are rejected.

7) Claim(s) 2,3,8-10,14,18 and 19 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Amendment

1. In response to the amendment filed 24 June 2003, paper number 4, the following has occurred:

- (a) The claim objection has been withdrawn by the examiner due to the changes made by the applicant.
- (b) The 35 U.S.C. 112 rejections have been withdrawn by the examiner due to the changes made by the applicant.
- (c) Revised drawings have been submitted.
- (d) The specification has been amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Sheehan (U.S. Patent 5,214, 254).

Claim 1: An air supply assembly (Fig. 1) comprising: a resonator component including a hose opening and a tube opening (Fig. 1:11); a hose (e.g. Fig. 1: 13) inserted into the hose opening (Fig. 1:11); and a tube (e.g. Fig. 1:12) inserted into the tube opening of the resonator component, the tube (e.g. Fig. 1:12) including a tapered end

(Fig. 1:the end of 12), tapered end inserted within said hose (e.g. Fig. 1:13) to seal and retain said hose against said hose opening (Fig. 2:11).

Claim 11: the tube includes a plurality of openings that communicate an interior of the tube into a resonator chamber (Fig. 2:14).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 4-7, 12, 15, 16, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheehan (U.S. Patent 5,214,254) in view of Akima et al (U.S. Patent 5,900,595).

Claim 12: Sheehan teaches an air supply assembly (Fig. 1) comprising: a resonator component including a hose opening and a tube opening (Fig. 1:11); a hose (e.g. Fig. 1:13) inserted into the hose opening (Fig. 1:11); and a tube (e.g. Fig. 1: 12) inserted into the tube opening (e.g. Fig. 1: 11) including a tapered end (Fig. 1: end of 12), inserted within the hose to seal and retain said hose against said hose opening (Fig. 2:12). Sheehan do not teach an air cleaner component or an intake manifold component. Akima et al teach an air cleaner component (Fig. 2:10) and an intake manifold component (Fig. 1:8). It would have been obvious to one having ordinary skill

in the art at the time the invention was made to modify the air supply assembly taught by Sheehan to include an air cleaner component or an intake manifold component as taught by Akima et al. The advantage of this would be an air intake device with a high silencing effect.

Claim 7: Sheehan teaches the limitations of claim 1. Referring to claim 7, Sheehan does not teach the hose is connected to an intake manifold component. Akima et al teach a hose connected to an intake manifold component (Fig. 1:11 connected to 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the air supply assembly taught by Sheehan to connect the hose to an intake manifold component, as taught by Akima et al. The advantage of this would be an air intake device with a high silencing effect.

Claims 4 and 15: Sheehan teaches the limitations of claim 1. Sheehan and Akima et al teach the limitations of claim 12. Referring to claims 4 and 15, Sheehan teaches a tube (e.g. Fig. 1: 12) with a retention end (e.g. Fig. 1: end of 12 that retains 13) opposite to the tapered end (e.g. Fig. 1: end of 12). Akima et al teach an air cleaner component (e.g. Fig. 3: 10) is attached to the retention end (Fig. 3:214).

Claims 5 and 16: Sheehan teaches the limitations of claim 1. Sheehan and Akima et al teach the limitations of claim 12. Referring to claims 5 and 16, Sheehan teaches Akima et al teach the tube includes a retention end (e.g. Fig. 1: end of 12 that retains 13) opposite to the tapered end (e.g. Fig. 1: end of 12). Akima et al teach a retention end includes a recessed portion positioned between a pair of tabs (Fig. 3: 214).

Claims 6 and 17: Sheehan teaches the limitations of claim 1. Sheehan and Akima et al teach the limitations of claim 12. Referring to claims 6 and 17, Akima et al teach a neck of the tube opening (e.g. Fig. 3: 114) of the resonator engages the recessed portion (Fig. 3: 214) of said tube to secure said tube to said resonator.

Claim 20: Sheehan teaches the limitations of claim 1. Sheehan and Akima et al teach the limitations of claim 12. Referring to claim 20, the tube includes a plurality of openings that communicate an interior of the tube into a resonator chamber (Fig. 2:14).

Allowable Subject Matter

6. Claims 21-24 are allowed.

Claims 2, 3, 8-10 13, 14, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. In response to applicant's argument that Sheehan does not disclose an air supply assembly including a hose inserted in a hose opening and a tube inserted into a tube opening, Sheehan teaches an opening into which both a tube and a hose can be inserted, therefore Sheehan teaches a hose opening and a tube opening. There is nothing in the claim language that distinguishes the placement of the openings or that the tube opening and the hose opening are separate from each other.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Sheehan teaches a resonator with a hose, a tube, and there respective openings, the tube having a tapered end and inserted into the hose. Sheehan does not teach an air cleaner component. Akima et al teach an air supply assembly with an air cleaner component.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. Any inquiry concerning this

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communication or earlier communications from the examiner should be directed to Renata McCloud whose telephone number is (703) 308-1763. The examiner can normally be reached on Mon.- Fri. from 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (703) 308-3370. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Renata McCloud
Examiner
Art Unit 2837

RDM



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